



2024:DHC:9265



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 21.11.2024***+ **W.P.(C) 4372/2024 & CM APPL. 17916/2024****V B ENGINEERS****.....Petitioner****Through: Mr. S. Hariharan, Advocate.****versus****DR RAM MANOHAR LOHIA HOSPITAL & ANR.Respondents****Through: Mr. Ruchir Mishra, Mr. Mukesh Kr. Tiwari and Ms. Rena Jena Mishra, Advocates.****CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. This Court had on 18.11.2024 after hearing the parties, passed the following order:

"1. The present Petition has been filed inter alia seeking the following prayers:

"a) Issuance of a writ in the nature of certiorari or any other writ, order or direction setting aside the order dated 02.03.2024 passed by Respondent No. 1;

b) Issuance of a writ in the nature of certiorari or any other writ, order or direction setting aside the notice dated 06.03.2024 passed by Respondent No. 1;

c) Issue such further appropriate writ/order/direction as this Hon'ble Court may be deem fit and proper in facts and circumstances of the case."

2. Learned Counsel for the Petitioner submits that the issue as obtains in this Petition is limited. He submits that the challenge by the Petitioner is to the fact that no Notice, as is required under the provisions of sub-Section (3) of Section 7 of the Public Premises (Eviction of Unauthorised



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Occupants) Act, 1971 (hereinafter referred to as “PP Act”), has been issued by the Respondent prior to taking action against the Petitioner under Section 7(2) of the PP Act.

3. Notice was issued in this Petition on 21.03.2024 by a Coordinate bench of this Court, limiting the Petition to prayer (b) above.

*4. Learned Counsel for the Petitioner relies on a Judgment passed by a Coordinate Bench of this Court in the matter of **Rachna Dogra v. Directorate of Estates, Ministry of Urban Affairs and Employment & Anr.; (2004) 109 DLT 286**, to submit that the pre-requisite for the issue of an order requiring payment of arrears of rent or damages under Section 7(1) or 7(2) of the PP Act, is a Notice to show cause as to why such order should not be passed under Section 7(3) of the PP Act. Learned Counsel submits that the Notice dated 06.03.2024 does not fulfil the requirement of this Section.*

5. Learned Counsel for the Petitioner submits that the impugned Notice simply affixes damages in the sum of Rs. 2,13,75,000/- without giving any show cause, as is required under Section 7(3) of the PP Act. He seeks to rely upon the following extract:

“AND WHEREAS the Inspecting Officer of Office of the Director General of Audit via Para dated 28.02.2024 made its observations on the unauthorized occupation of space in RML Hospital by a contractor of CPWD for 15 years and non levy of damage rates for encroachment. The Inspecting Officer has observed that a sum of Rs.2,13,75,000/- (Rupees Two crore, thirteen lac, seventy-five thousand only) is the damage rate for unauthorized occupation in the Hospital for 15 years (180) months to be charged and recovered from the contractor, herein Sh. Som Juneja of M/s V.B. Engineers, against the unauthorized occupation of area within the Hospital with penal interest.

NOW, THEREFORE, the competent authority has decided to charge and recover Rs.2,13,75,000/- (Rupees Two crore thirteen lac seventy five thousand only) from Sh. Som Juneja of M/s V.B. Engineers for unauthorized occupation of space in the hospital premises for fifteen (15) years (180 months).

6. Learned Counsel for the Respondents submits that Respondent No.1 has filed a Counter Affidavit on 14.11.2024. The same is however not on record. On steps being taken, let the same be brought on record.”



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2. At the outset, learned Counsel for the Petitioner submits that he confines his relief in the present petition only to prayer (b) as set out.
3. The Counter Affidavit filed by the Respondents is on record.
4. Learned Counsel for the Petitioner submits that the Counter Affidavit does not address the issue that was raised by the Court in the order dated 18.11.2024. Learned Counsel for the Respondents fairly concedes that this issue has not been addressed.
5. In these circumstances, this Court finds that the notice dated 06.03.2024 does not fulfil the statutory requirement as is set out in sub-Section (3) of Section 7 of the Public Premises Act, 1971 and the settled law in this behalf.
6. The Impugned Notice dated 06.03.2024 is set aside.
7. The Respondents are however at liberty to pass a fresh order in accordance with law. The rights and contentions of both the parties are left open in this regard.
8. The Petition alongwith the pending Application stands disposed of in the foregoing terms.

TARA VITASTA GANJU, J

NOVEMBER 21, 2024/pa

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